

From: Smith, Kristi

Location: 4045; conf. line Ex. 6 - Personal Privacy **Code** Ex. 6 - Personal Privacy

Importance: Normal

Subject: Follow-up ozone extension discussion with Kevin Minoli

Categories: Important

Start Date/Time: Fri 7/14/2017 7:30:00 PM

End Date/Time: Fri 7/14/2017 8:30:00 PM

Designations delay Briefing Sheet 7.13.17.docx

Recent Designation Extensions.docx

Designations Process Generally.docx

Ozone Extension Stay Response – Strawman schedule.docx

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Baptist, Erik[baptist.erik@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Mills, Derek[Mills.Derek@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Smith, Kristi
Sent: Wed 8/2/2017 5:00:11 PM
Subject: RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Justin –

I will read your message as not recusing yourself from the motion, which I think is right (since those others states aren't actually a party yet).

And thus Erik doesn't have to review and we will send to DOJ

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Schwab, Justin
Sent: Wednesday, August 02, 2017 12:22 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Baptist, Erik <baptist.erik@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur
Importance: High

I am recused from deliberations with regard to that motion to intervene but because they are not

yet parties I am not sure whether I am still permitted to participate in the action itself.

To resolve uncertainty on that count, I am happy to let Erik handle the case for the time being.

Sent from my iPhone

On Aug 2, 2017, at 12:19 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Erik -

My understanding is that Justin is now revised because of the states that are intervening on our behalf.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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On Aug 2, 2017, at 12:01 PM, Baptist, Erik <baptist.erik@epa.gov> wrote:

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

baptist.erik@epa.gov

From: Bianco, Karen

Sent: Wednesday, August 2, 2017 10:35 AM

To: Baptist, Erik <baptist.erik@epa.gov>

Cc: Mills, Derek <Mills.Derek@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>;

Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Subject: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco ³ U.S. Environmental Protection Agency

Attorney-Adviser ³ Office of General Counsel ³ WJCN 7426X ³ 202-564-3298

To: Baptist, Erik[baptist.erik@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]; Mills, Derek[Mills.Derek@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Schwab, Justin
Sent: Wed 8/2/2017 4:15:34 PM
Subject: Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Looks good with one exception:

Ex. 5 - Deliberative Process and Attorney Client

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Attorney-Adviser ³ Office of General Counsel ³ WJCN 7426X ³ 202-564-3298

To: Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Schmidt, Lorie
Sent: Wed 8/2/2017 2:32:02 PM
Subject: RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Sounds good

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Bianco, Karen
Sent: Wednesday, August 02, 2017 10:29 AM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Ex. 5 - Deliberative Process and Attorney Client

Sent from my iPhone

On Aug 1, 2017, at 8:49 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

Thanks for reviewing the motion, Lorie.

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

From: Schmidt, Lorie

Sent: Tuesday, August 01, 2017 8:42 PM

To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>

Subject: FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Importance: High

Ex. 5 - Deliberative Process and Attorney Client

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Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Bianco, Karen

Sent: Tuesday, August 01, 2017 3:04 PM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>

Subject: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Importance: High

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Please send me your edits and comments and then I will pass this along to Erik for his review.

Karen Bennett Bianco ³ U.S. Environmental Protection Agency

Attorney-Adviser ³ Office of General Counsel ³ WJCN 7426X ³ 202-564-3298

To: Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Schmidt, Lorie
Sent: Wed 8/2/2017 12:42:23 AM
Subject: FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur
Ozone Designations Extension Mootness Motion for front office review.docx

Ex. 5 - Deliberative Process and Attorney Client

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

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Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Tierney, Jan
Sent: Mon 7/31/2017 1:32:36 PM
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen
Sent: Monday, July 31, 2017 9:25 AM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: FW: Ozone Designation Extension

Jan, see email chain forwarded below. Do you have any thoughts on this?

From: Rave, Norman (ENRD) [<mailto:Norman.Rave@usdoj.gov>]
Sent: Friday, July 28, 2017 5:12 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen [<mailto:Bianco.Karen@epa.gov>]
Sent: Friday, July 28, 2017 5:09 PM
To: Rave, Norman (ENRD) <NRave@ENRD.USDOJ.GOV>
Subject: RE: Ozone Designation Extension

Yes.

From: Rave, Norman (ENRD) [<mailto:Norman.Rave@usdoj.gov>]
Sent: Friday, July 28, 2017 4:13 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Rave, Norman (ENRD)
Sent: Fri 7/28/2017 9:12:25 PM
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen [mailto:Bianco.Karen@epa.gov]
Sent: Friday, July 28, 2017 5:09 PM
To: Rave, Norman (ENRD) <NRave@ENRD.USDOJ.GOV>
Subject: RE: Ozone Designation Extension

Yes.

From: Rave, Norman (ENRD) [mailto:Norman.Rave@usdoj.gov]
Sent: Friday, July 28, 2017 4:13 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Rave, Norman (ENRD)
Sent: Fri 7/28/2017 8:12:34 PM
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Schwab, Justin
Sent: Fri 7/28/2017 3:08:26 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

No—in fact I would just share it with him and I will let Jon B. know we have done so. But again, please stress that this is not set in stone.

From: Bianco, Karen
Sent: Friday, July 28, 2017 11:07 AM
To: Schwab, Justin <schwab.justin@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Norman Rave, our staff attorney at DOJ on this case, had also asked me to see a draft of the notice when we had one that was ready to share. Are there any concerns with me sharing the draft notice directly with Norman as well?

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:05 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Mandy has authorized me to share this with Brightbill. I will make it clear this is a draft and it may change.

From: Schwab, Justin
Sent: Friday, July 28, 2017 10:44 AM

To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

DOJ leadership has asked to see the draft so that they can coordinate with an eye to next week's filing date. Thoughts?

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Sent: Friday, July 28, 2017 10:09 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

The draft FR notice is attached.

Thanks, Karen

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Sent: Friday, July 28, 2017 10:06 AM
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Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Can someone pls send me the FR notice? That didn't come through in any of the emails

Josh

From: Schwab, Justin
Sent: Friday, July 28, 2017 9:48 AM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

That's all right - I will confirm with Mandy/josh that they're on it.

Enjoy Rehobeth!

Sent from my iPhone

On Jul 28, 2017, at 9:46 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Justin -

This is already in route to Mandy (if not with her). We've been keeping OAR Chief of Staff Josh Lewis (Cc'ed here) in the loop, given the urgency.

But I understand if you feel you also have to move this through your own channels.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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On Jul 28, 2017, at 9:32 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Thank you. Given the tight turn I think we need to circulate to mandy (and Sam D and Brittany) now and explain we are doing parallel review.

Thanks to all for the great and timely work here.

Sent from my iPhone

On Jul 28, 2017, at 9:04 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

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<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

<Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx>

To: Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
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From: Schwab, Justin
Sent: Fri 7/28/2017 3:05:21 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

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<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

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Ex. 5 - Attorney Client

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As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

<Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx>

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Thur 7/27/2017 2:26:06 PM
Subject: ozone designation stay deadline

Karen –

I need to provide the Front Office with a bullet for our deadline next week.

Ex. 5 -Deliberative Process and Attorney Client

Ex. 5 -Deliberative Process and Attorney Client

Is that right?

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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To: Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]
Cc: Tierney, Jan[tierney.jan@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
From: Mathias, Scott
Sent: Wed 8/2/2017 3:45:55 PM
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Kristi,
Mike and I are fine with the changes. Since this is still an old version of the preamble in terms of formatting and missing references, I'll need you to confirm all final changes for me and then we'll make them to the latest master version and send to Josh.

BTW, here's the missing footnote 2 in case you need to edit it (these are the FR citations):

2 For the 2008 ozone NAAQS, see 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, see 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, see 78 FR 47191 (August 5, 2013); and for the 2012 fine particulate matter NAAQS, see 80 FR 2206 (January 15, 2015).

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

-----Original Message-----

From: Smith, Kristi
Sent: Wednesday, August 02, 2017 11:31 AM
To: Mathias, Scott <Mathias.Scott@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Tierney, Jan <tierney.jan@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Sorry - 2 chains going on. Below is the message I just sent Justin.

Mike & Scott - Are you okay with the revisions from Jan?

From: Smith, Kristi
Sent: Wednesday, August 02, 2017 11:29 AM
To: Tierney, Jan <tierney.jan@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Justin – We'll work with OAQPS and get you one consolidated response.

Ex. 5 - Deliberative Process and Attorney Client

Here is an edit with both Jan & my reviews together.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

-----Original Message-----

From: Mathias, Scott

Sent: Wednesday, August 02, 2017 11:28 AM

To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>

Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>

Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Karen,

I just talked to Mike and left you a phone message.

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

-----Original Message-----

From: Bianco, Karen

Sent: Wednesday, August 02, 2017 11:12 AM

To: Lewis, Josh <Lewis.Josh@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>

Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>

Subject: FW: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Just received the attached via Justin with the message forwarded below.

-----Original Message-----

From: Schwab, Justin

Sent: Wednesday, August 02, 2017 10:25 AM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>;

Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>

Subject: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

To: Mathias, Scott[Mathias.Scott@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]
Cc: Tierney, Jan[tierney.jan@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
From: Smith, Kristi
Sent: Wed 8/2/2017 3:30:41 PM
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx
Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits jmt + KMS.docx

Sorry - 2 chains going on. Below is the message I just sent Justin.

Mike & Scott - Are you okay with the revisions from Jan?

From: Smith, Kristi
Sent: Wednesday, August 02, 2017 11:29 AM
To: Tierney, Jan <tierney.jan@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Justin – We'll work with OAQPS and get you one consolidated response.

Ex. 5 - Deliberative Process and Attorney Client

Here is an edit with both Jan & my reviews together.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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-----Original Message-----

From: Mathias, Scott
Sent: Wednesday, August 02, 2017 11:28 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Karen,

I just talked to Mike and left you a phone message. **Ex. 5 - Deliberative Process and Attorney Client**

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

-----Original Message-----

From: Bianco, Karen
Sent: Wednesday, August 02, 2017 11:12 AM

To: Lewis, Josh <Lewis.Josh@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Just received the attached via Justin with the message forwarded below.

-----Original Message-----

From: Schwab, Justin

Sent: Wednesday, August 02, 2017 10:25 AM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>;

Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>

Subject: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

To: Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
From: Smith, Kristi
Sent: Wed 8/2/2017 3:28:53 PM
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx
Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits jmt + KMS.docx

Justin – We'll work with OAQPS and get you one consolidated response.

Ex. 5 - Deliberative Process and Attorney Client

Here is an edit with both Jan & my reviews together.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Tierney, Jan
Sent: Wednesday, August 02, 2017 11:24 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Ex. 5 - Deliberative Process and Attorney Client

From: Bianco, Karen

Sent: Wednesday, August 2, 2017 11:19 AM

To: Smith, Kristi; Schwab, Justin; Schmidt, Lorie; Srinivasan, Gautam; Tierney, Jan

Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

I'm looping Jan into this email chain. I am also fine with Mandy's redline edit and agree with Kristi's response on her comment.

-----Original Message-----

From: Smith, Kristi

Sent: Wednesday, August 02, 2017 11:12 AM

To: Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>

Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Here is my proposed response to Mandy's comment. I'm fine with the other edit.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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-----Original Message-----

From: Schwab, Justin

Sent: Wednesday, August 02, 2017 10:25 AM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>

Subject: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Importance: High

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

To: Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
From: Tierney, Jan
Sent: Wed 8/2/2017 3:23:43 PM
Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx
Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits jmt.docx

Ex. 5 - Deliberative Process and Attorney Client

From: Bianco, Karen
Sent: Wednesday, August 2, 2017 11:19 AM
To: Smith, Kristi; Schwab, Justin; Schmidt, Lorie; Srinivasan, Gautam; Tierney, Jan
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

I'm looping Jan into this email chain. I am also fine with Mandy's redline edit and agree with Kristi's response on her comment.

-----Original Message-----

From: Smith, Kristi
Sent: Wednesday, August 02, 2017 11:12 AM
To: Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx

Here is my proposed response to Mandy's comment. I'm fine with the other edit.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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-----Original Message-----

From: Schwab, Justin
Sent: Wednesday, August 02, 2017 10:25 AM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits.docx
Importance: High

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

To: Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Thur 7/13/2017 5:39:04 PM
Subject: RE: draft briefing paper for 3:30 with front office
Designations delay Briefing Sheet 7.13.17 + KMS.docx

Ex. 5 - Deliberative Process and Attorney Client

Also, is the potential “schedule” on a separate document?

After you make my edits, I would share with Lorie and with Scott (and ask Scott not to distribute further at this time).

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Tierney, Jan
Sent: Thursday, July 13, 2017 1:26 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: draft briefing paper for 3:30 with front office

No, you answered my question about it. Thanks

From: Bianco, Karen
Sent: Thursday, July 13, 2017 1:10 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Tierney, Jan <tierney.jan@epa.gov>
Subject: draft briefing paper for 3:30 with front office

Ex. 5 - Deliberative Process and Attorney Client

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Tierney, Jan
Sent: Thur 7/13/2017 4:52:08 PM
Subject: RE: short write-up
Designations delay Briefing Sheet DRAFT2.docx

Thanks Karen. Attached are some edits.

From: Bianco, Karen
Sent: Thursday, July 13, 2017 12:34 PM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: short write-up

See what you think of this.

From: Bianco, Karen
Sent: Thursday, July 13, 2017 11:24 AM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: short write-up

Ex. 5 - Deliberative Process and Attorney Client

From: Tierney, Jan
Sent: Thursday, July 13, 2017 10:59 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: short write-up

Here's something short – I can do it some other way or I can provide more info, if needed. Just let me know what I can do to help.

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Baptist, Erik[baptist.erik@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Schwab, Justin
Sent: Thur 7/13/2017 9:39:48 AM
Subject: Re: Ozone Designation Delay - Motion for summary vacatur or stay

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Sent from my iPhone

On Jul 13, 2017, at 1:11 AM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Ex. 5 - Attorney Client

Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 13, 2017, at 12:47 AM, Baptist, Erik <baptist.erik@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On Jul 13, 2017, at 12:34 AM, Schmidt, Lorie <Schmidt.Lorie@epa.gov> wrote:

Ex. 5 - Attorney Client

On Jul 13, 2017, at 12:07 AM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Ex. 5 - Attorney Client

<image1.PNG>

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 12, 2017, at 5:56 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel *
smith.kristi@epa.gov * (202) 564-3068 *

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do not distribute outside EPA or DOJ.

From: Smith, Kristi

Sent: Wednesday, July 12, 2017 3:28 PM

To: Kevin Minoli (Minoli.Kevin@epa.gov) <Minoli.Kevin@epa.gov>;
Baptist, Erik <baptist.erik@epa.gov>; Schwab, Justin
<schwab.justin@epa.gov>; Gunasekara, Mandy
<Gunasekara.Mandy@epa.gov>; Dunham, Sarah
<Dunham.Sarah@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>;
Page, Steve <Page.Steve@epa.gov>; Koerber, Mike
<Koerber.Mike@epa.gov>

Cc: Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan
<tierney.jan@epa.gov>

Subject: Ozone Designation Delay - Motion for summary vacatur or stay

Attached is the Petition for Review and Motion for Summary Vacatur or
Stay of the ozone designation extension that Earthjustice filed in the DC
Circuit. We are reviewing it now and will send around a summary soon.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel *
smith.kristi@epa.gov * (202) 564-3068 *

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From: Rave, Norman (ENRD) [<mailto:Norman.Rave@usdoj.gov>]
Sent: Wednesday, July 12, 2017 3:20 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Tierney, Jan
<tierney.jan@epa.gov>
Subject: FW: American Lung Ass'n v. EPA, No. 17-1172 (D.C. Cir.)--
Motion for summary vacatur or stay

Norman Rave

U.S. Dept. of Justice

Environmental Defense Section

P.O. Box 7611

Washington, D.C. 20044

(202) 616-7568

From: Seth Johnson [<mailto:sjohnson@earthjustice.org>]
Sent: Wednesday, July 12, 2017 3:03 PM
To: Lipshultz, Jon (ENRD) <JLipshultz@ENRD.USDOJ.GOV>

Cc: Rave, Norman (ENRD) <NRave@ENRD.USDOJ.GOV>

Subject: American Lung Ass'n v. EPA, No. 17-1172 (D.C. Cir.)--Motion for summary vacatur or stay

Jack & Norman,

Attached please find the motion we just filed in the above-captioned case, which we also just filed today. For convenience, I also attach a scan of the court-stamped petition for review.

There is a sizable addendum accompanying the motion, so this email will be followed by 3 others. (In ECF, it's all one PDF file, but that was too big to email. The substance is identical.)

This email is to effectuate service of the motion on EPA.

Best,

Seth

Seth Johnson

Staff Attorney

Earthjustice Washington, DC, Office

1625 Massachusetts Ave., NW, Ste. 702

Washington, DC 20036

T: 202.667.4500 x5245 or 202.797.5245

F: 202.667.2356

earthjustice.org

<image001.gif>

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If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

<_Motion for Vacatur or Stay_07-12-2017.pdf>

To: Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]
From: Lewis, Josh
Sent: Fri 7/28/2017 3:13:57 PM
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

Ok

On Jul 28, 2017, at 11:01 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Josh -

I'm including Karen Bianco here. I'm on leave today and will be out of pocket starting at noon, so please coordinate with Karen as needed.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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On Jul 28, 2017, at 10:47 AM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

Thanks. Going to show to Sarah at 11 (or noon at the latest)

From: Smith, Kristi
Sent: Friday, July 28, 2017 10:47 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Here they are

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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material; do not distribute outside EPA or DOJ.

To: Lewis, Josh[Lewis.Josh@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Fri 7/28/2017 3:01:36 PM
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

Josh -

I'm including Karen Bianco here. I'm on leave today and will be out of pocket starting at noon, so please coordinate with Karen as needed.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068*

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Thanks. Going to show to Sarah at 11 (or noon at the latest)

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Sent: Friday, July 28, 2017 10:47 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Here they are

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

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I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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To: Schwab, Justin[schwab.justin@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Lewis, Josh
Sent: Fri 7/28/2017 2:06:12 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Can someone pls send me the FR notice? That didn't come through in any of the emails

Josh

From: Schwab, Justin
Sent: Friday, July 28, 2017 9:48 AM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

That's all right - I will confirm with Mandy/josh that they're on it.

Enjoy Rehobeth!

Sent from my iPhone

On Jul 28, 2017, at 9:46 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Justin -

This is already in route to Mandy (if not with her). We've been keeping OAR Chief of Staff Josh Lewis (Cc'ed here) in the loop, given the urgency.

But I understand if you feel you also have to move this through your own channels.

- Kristi

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On Jul 28, 2017, at 9:32 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

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<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

<Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx>

To: Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]
From: Schwab, Justin
Sent: Fri 7/28/2017 1:48:25 PM
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

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Enjoy Rehobeth!

Sent from my iPhone

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Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]
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Sent: Fri 7/28/2017 1:46:49 PM
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

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To: Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
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To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Fri 7/28/2017 1:04:07 PM
Subject: Draft FRN on Ozone designations deferral withdrawal
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx](#)
[ATT00001.htm](#)
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)
[ATT00002.htm](#)

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To: Bianco, Karen[Bianco.Karen@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Smith, Kristi
Sent: Thur 7/27/2017 8:01:23 PM
Subject: My review of the ozone messages
Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 + OGC.docx

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client If you're okay with this, please send to Scott and others as I'm about to hop on a call. But if you feel like we need to talk, please e-mail with an urgent sign and I'll call you on my cell (while Nora stays on our call).

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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To: Mathias, Scott[Mathias.Scott@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
Cc: Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Cortelyou-Lee, Jan[Cortelyou-Lee.Jan@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Thur 7/27/2017 5:13:11 PM
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Thanks for the explanation.

Adding Karen to this string.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Mathias, Scott
Sent: Thursday, July 27, 2017 1:12 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

From: Koerber, Mike

Sent: Thursday, July 27, 2017 12:58 PM

To: Mathias, Scott <Mathias.Scott@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>

Subject: Re: O3D extension withdrawal: draft FRN & Key Messages

I would add the 2 sentences that I sent to Scott this morning. Otherwise, I am fine with both documents.

Mike

Sent from my iPhone

On Jul 27, 2017, at 12:29 PM, Mathias, Scott <Mathias.Scott@epa.gov> wrote:

All,

Attached is the latest draft of the FRN and a new document containing Key Messages that the administration may want to use regarding this action and the broader context of ozone NAAQS implementation.

After discussions this morning, OAQPS is recommending that any embellishments on the core elements of the withdrawal action be accomplished in communications regarding the action, rather than within the action itself. This Key Messages draft draws from the language in the 7/24/2017 draft of the “Report to Congress on Administrative Options to Enable States to Enter into Cooperative Agreements to Provide Regulatory Relief,” and ultimately care should be taken to ensure that these messages continue to be consistent as both documents move toward final.

Please review ASAP and let us know if there is anything we else we might add or say differently, and if you have ideas about where these key messages would go (e.g., communications Q&A, desk statement, fact sheet, press release, etc.).

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC
27711 | 919.541.5310**

<Notice-withdraw extension of O3D deadline 7-27-17 OAQPS draft.docx>

<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17.docx>

To: Oldham, Carla[Oldham.Carla@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Wed 7/26/2017 4:08:32 PM
Subject: RE: Ozone next steps - OAQPS check in
Notice-withdraw extension of O3D deadline 7-25-17 OGC.doc

Per the conversation today, here's the notice with notes on the "direction" we received from Justin. The plan going forward is for OAQPS will fill out bullet points of possible messaging, share with OGC, and the plan is to have a list of possible messaging options to share with Mandy and others tonight/tomorrow morning.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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-----Original Appointment-----

From: Smith, Kristi
Sent: Tuesday, July 25, 2017 6:43 PM
To: Smith, Kristi; Oldham, Carla; Mathias, Scott; Koerber, Mike
Subject: Ozone next steps - OAQPS check in
When: Wednesday, July 26, 2017 9:45 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Ex. 6 - Personal Privacy

To: Bianco, Karen[Bianco.Karen@epa.gov]
From: Koerber, Mike
Sent: Wed 7/19/2017 7:59:47 PM
Subject: FW: new briefing paper
O3D - Insufficient Info Briefing v6 7-19-2017 cw.docx

Comments from Chet. I think Scott may also send you comments. Thanks, Karen, for your work on this.

From: Wayland, Richard
Sent: Wednesday, July 19, 2017 3:56 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>
Subject: RE: new briefing paper

Few edits...

Richard A. "Chet" Wayland | Director | Air Quality Assessment Division - Mail Code C304-02 | Office of Air Quality Planning & Standards | U.S. Environmental Protection Agency | Research Triangle Park, NC 27711 | Desk: 919-541-4603 | Cell: 919-606-0548 |

From: Koerber, Mike
Sent: Wednesday, July 19, 2017 3:35 PM
To: Wayland, Richard <Wayland.Richard@epa.gov>
Subject: FW: new briefing paper

Latest from OGC. Please feel free to comment.

From: Bianco, Karen
Sent: Wednesday, July 19, 2017 3:14 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: new briefing paper

Attached is a new version of the briefing paper reflecting the edits we discussed with Mike. I did not redline the straightforward edits Mike gave us, but otherwise redlined things that were new (which are limited).

Ex. 5 - Deliberative Process and Attorney Client

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I'm working on the Appendices in a separate document which I will send when I can.

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

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From: Smith, Kristi
Sent: Wed 7/19/2017 7:46:58 PM
Subject: RE: new briefing paper
O3D - Insufficient Info Briefing v6 7-19-2017 jmt + KMS.docx

A few additional from me. I think this is looking very good.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Tierney, Jan
Sent: Wednesday, July 19, 2017 3:23 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>
Subject: Re: new briefing paper

Just a few edits on the redline material

From: Bianco, Karen
Sent: Wednesday, July 19, 2017 3:14 PM
To: Koerber, Mike; Wood, Anna; Mathias, Scott
Cc: Smith, Kristi; Tierney, Jan
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Cc: Smith, Kristi[Smith.Kristi@epa.gov]
From: Tierney, Jan
Sent: Wed 7/19/2017 7:23:12 PM
Subject: Re: new briefing paper
O3D - Insufficient Info Briefing v6 7-19-2017 jmt.docx

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To: Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Wed 7/19/2017 2:02:17 PM
Subject: RE: O3D Extension - New revised briefing
O3D - Insufficient Info Briefing v5 7-18-2017 jmt + KMS.docx

Here are my edits to Karen's re-write on top of Jan's. I also cut all the appendices and just focused on the key 3 pages. After looking at both, I think this paper does a much better job of presenting the relevant info and getting to the heart of the discussion, so I want to share it with Scott sooner than later.

Please take a look and see if you have problems with any of my additions. I'd like to get a clean copy soon to send to Scott.

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From: Tierney, Jan
Sent: Wednesday, July 19, 2017 8:44 AM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Re: O3D Extension - New revised briefing

Here are my edits on Karen's shortened paper - overall looks really good. I didn't spend any time on the appendix.

From: Smith, Kristi
Sent: Wednesday, July 19, 2017 8:41 AM
To: Bianco, Karen; Tierney, Jan
Subject: RE: O3D Extension - New revised briefing

Thanks to both of you for your quick work. I'm starting with this and then I'll turn to Karen's

reworked version.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: Bianco, Karen
Sent: Wednesday, July 19, 2017 8:35 AM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

My edits on top of Jan's. I didn't add much because Jan really did a great job hitting the key problem areas. I do have some suggestions about reworking the section with Justin's ideas, though.

From: Tierney, Jan
Sent: Tuesday, July 18, 2017 4:35 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

Here are my edits on the document. I did do some recommendations as to cuts early on, but then dropped that approach. I'll be here until 5:15. Working from home tomorrow, which means I'll probably log on between 6:30 and 7. Home phone is Ex. 6 - Personal Privacy

From: Bianco, Karen
Sent: Tuesday, July 18, 2017 2:49 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: O3D Extension - New revised briefing

For our ARLO-internal process moving forward, I'd suggest:

1. All of us look through the document Scott sent and edit things that are

wrong/miscommunicated/missing/etc, but not generally attack the overall structure/length. Jan, if you have time to do this over the next hour or two, I'd suggest you go first, then me, then Kristi.

2. I'll take a version of this offline and do a more dramatic reworking. I'll send that to Jan then Kristi to review.

Does that make sense?

From: Mathias, Scott

Sent: Tuesday, July 18, 2017 2:45 PM

To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>

Cc: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>

Subject: O3D Extension - New revised briefing

For OGC review and

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Revision summary:

- Added Purpose and Introduction to first page.
- Old section III moved to appendix. Instead 2 sentences on state recommendations added to section I under State Recommendations.
- Re-ordered the lists in some sections according to different criteria.
- **Ex. 5 - Deliberative Process and Attorney Client**
- Tried to cut down words on the page wherever it seemed feasible without losing important points.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

To: Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Tierney, Jan
Sent: Wed 7/19/2017 12:44:18 PM
Subject: Re: O3D Extension - New revised briefing
O3D - Insufficient Info Briefing v5 7-18-2017 jmt.docx

Here are my edits on Karen's shortened paper - overall looks really good. I didn't spend any time on the appendix.

From: Smith, Kristi
Sent: Wednesday, July 19, 2017 8:41 AM
To: Bianco, Karen; Tierney, Jan
Subject: RE: O3D Extension - New revised briefing

Thanks to both of you for your quick work. I'm starting with this and then I'll turn to Karen's reworked version.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

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From: Bianco, Karen
Sent: Wednesday, July 19, 2017 8:35 AM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

My edits on top of Jan's. I didn't add much because Jan really did a great job hitting the key problem areas. I do have some suggestions about reworking the section with Justin's ideas, though.

From: Tierney, Jan
Sent: Tuesday, July 18, 2017 4:35 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

Here are my edits on the document. I did do some recommendations as to cuts early on, but then dropped that approach. I'll be here until 5:15. Working from home tomorrow, which means I'll probably log on between 6:30 and 7. Home phone is Ex. 6 - Personal Privacy

From: Bianco, Karen
Sent: Tuesday, July 18, 2017 2:49 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: O3D Extension - New revised briefing

For our ARLO-internal process moving forward, I'd suggest:

1. All of us look through the document Scott sent and edit things that are wrong/miscommunicated/missing/etc, but not generally attack the overall structure/length. Jan, if you have time to do this over the next hour or two, I'd suggest you go first, then me, then Kristi.
2. I'll take a version of this offline and do a more dramatic reworking. I'll send that to Jan then Kristi to review.

Does that make sense?

From: Mathias, Scott
Sent: Tuesday, July 18, 2017 2:45 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Cc: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>
Subject: O3D Extension - New revised briefing

Ex. 5 - Deliberative Process and Attorney Client

Revision summary:

- Ex. 5 - Deliberative Process and Attorney Client Added Purpose and Introduction to first page.
- Ex. 5 - Deliberative Process and Attorney Client Old section III moved to appendix. Instead 2 sentenced on state

recommendations added to section I under State Recommendations.

- Re-ordered the lists in some sections according to different criteria.

Ex. 5 - Deliberative Process and Attorney Client

- Tried to cut down words on the page wherever it seemed feasible without losing important points.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

To: Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Tierney, Jan
Sent: Tue 7/18/2017 8:35:28 PM
Subject: RE: O3D Extension - New revised briefing
O3D - Insufficient Info Briefing v4 7-18-2017 ogc1.docx

Here are my edits on the document. I did do some recommendations as to cuts early on, but then dropped that approach. I'll be here until 5:15. Working from home tomorrow, which means I'll probably log on between 6:30 and 7. Home phone is Ex. 6 - Personal Privacy

From: Bianco, Karen
Sent: Tuesday, July 18, 2017 2:49 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: O3D Extension - New revised briefing

For our ARLO-internal process moving forward, I'd suggest:

1. All of us look through the document Scott sent and edit things that are wrong/miscommunicated/missing/etc, but not generally attack the overall structure/length. Jan, if you have time to do this over the next hour or two, I'd suggest you go first, then me, then Kristi.
2. I'll take a version of this offline and do a more dramatic reworking. I'll send that to Jan then Kristi to review.

Does that make sense?

From: Mathias, Scott
Sent: Tuesday, July 18, 2017 2:45 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Cc: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>
Subject: O3D Extension - New revised briefing

Ex. 5 - Deliberative Process and Attorney Client

Revision summary:

- [REDACTED] Added Purpose and Introduction to first page.
- [REDACTED] Old section III moved to appendix. Instead 2 sentences on state recommendations added to section I under State Recommendations.
- [REDACTED] Re-ordered the lists in some sections according to different criteria.

Ex. 5 - Deliberative Process and Attorney Client

- [REDACTED] Tried to cut down words on the page wherever it seemed feasible without losing important points.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

To: Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Tierney, Jan
Sent: Tue 7/18/2017 10:54:53 AM
Subject: Re: Updated O3D extension briefing
O3D - Insufficient Info Briefing v2 7-17-2017 +kbb jmt.docx

Attached are my edits. I thought it better to get my edits in early from home rather than waiting until I got in to the office. Still need to shower and will probably eat before I leave. Hope to be in by 9 for our meeting.

From: Smith, Kristi
Sent: Monday, July 17, 2017 9:47 PM
To: Bianco, Karen
Cc: Tierney, Jan
Subject: Re: Updated O3D extension briefing

Thanks. This looks like a good start. **Ex. 5 - Deliberative Process and Attorney Client**

Ex. 5 - Deliberative Process and Attorney Client

I think we'll likely need additional modification after talking to Sarah.

Talk to you in the morning.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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On Jul 17, 2017, at 8:43 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

Attached is my markup. I believe Jan is planning to add her markup onto this draft early tomorrow morning (around 8). Kristi, if you're providing any input at this stage, it'd be helpful to have your markup tonight so that Jan can add to it. otherwise, it might be worth just waiting to see whatever draft evolves after the pre-brief with Sarah tomorrow.

From: Bianco, Karen
Sent: Monday, July 17, 2017 7:19 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Subject: Fwd: Updated O3D extension briefing

This is the latest. I'm planning to review later tonight and could give you a version with my markup by around 9.

Sent from my iPhone

Begin forwarded message:

From: "Mathias, Scott" <Mathias.Scott@epa.gov>
Date: July 17, 2017 at 6:02:42 PM EDT
To: "Bianco, Karen" <Bianco.Karen@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>
Subject: FW: Updated O3D extension briefing

Here's where OAQPS is at the moment. Your section is now section V, and can include your assessment of risks associated with any of the policy ideas being presented.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA,
RTP, NC 27711 | 919.541.5310**

From: Mathias, Scott
Sent: Monday, July 17, 2017 6:02 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Page, Steve <Page.Steve@epa.gov>
Subject: Updated O3D extension briefing

See attached.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA,
RTP, NC 27711 | 919.541.5310**

<O3D - Insufficient Info Briefing v2 7-17-2017 +kbb.docx>

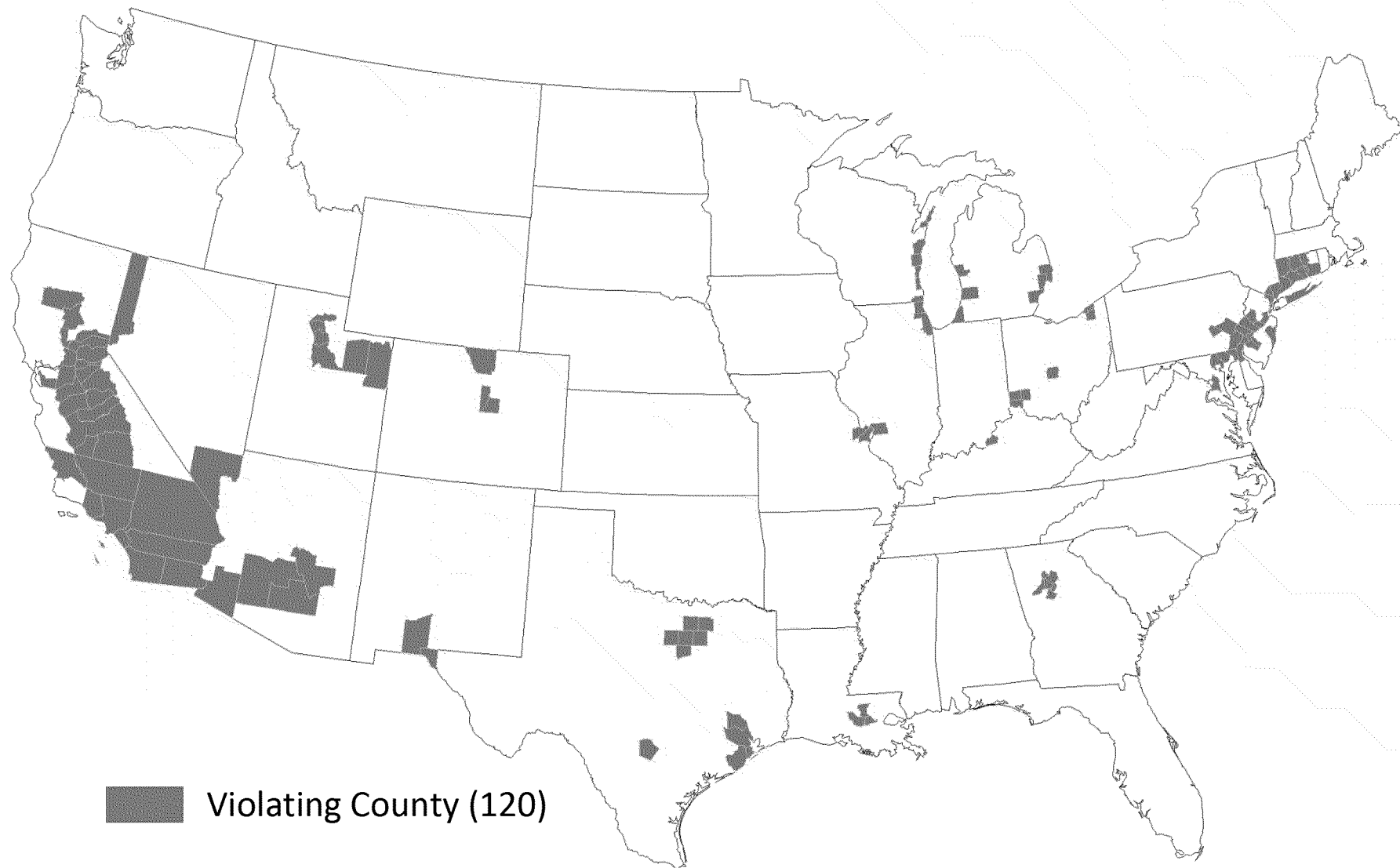
2015 Ozone NAAQS Area Designations: Overview

Draft 7/17/2017

Summary

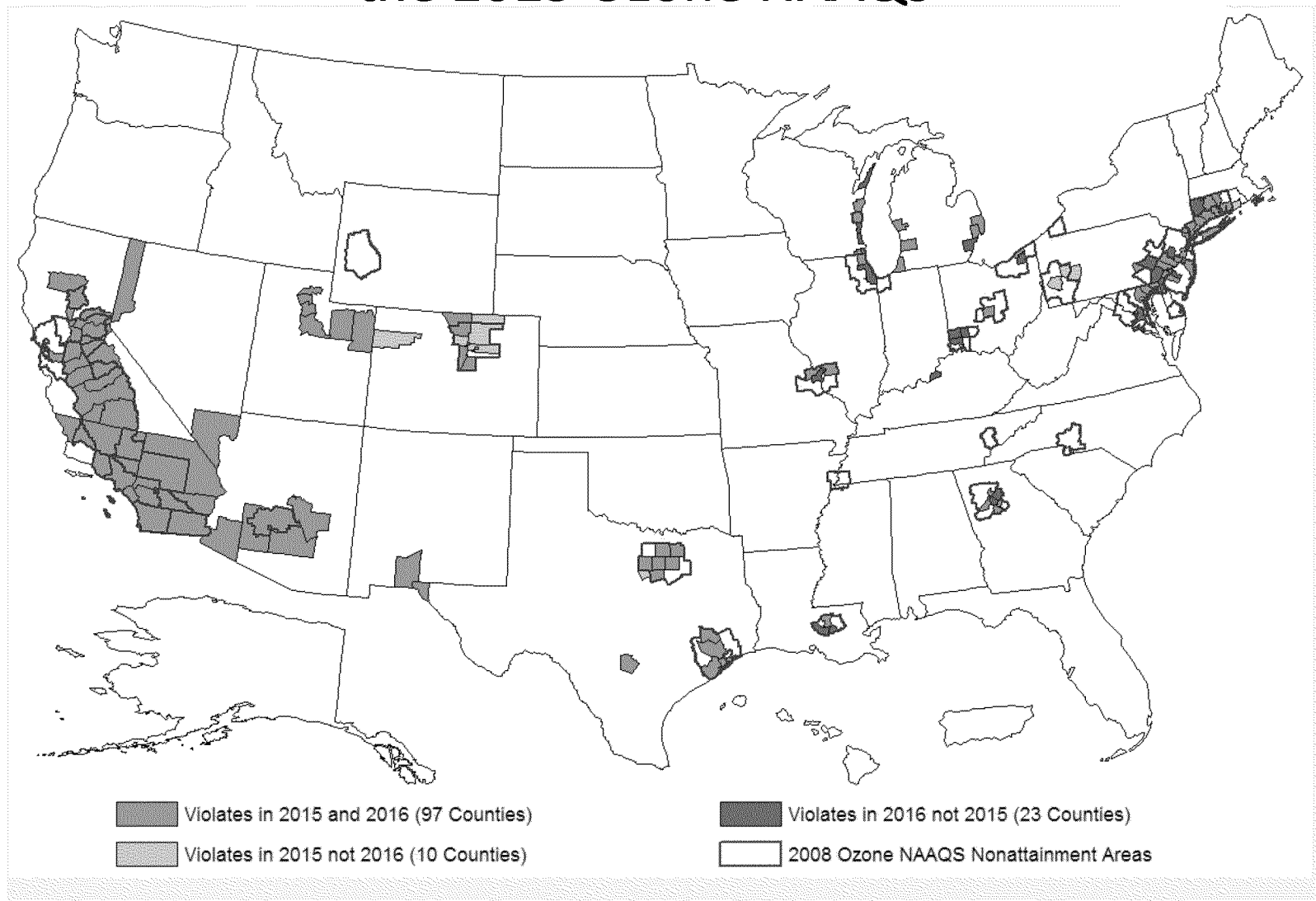
- Currently 55 potential nonattainment areas
 - see map of violating counties
 - 1 violating area with unresolved Exceptional Event demo (El Paso)
- 2 potential Unclassifiable areas
 - 1 recommended by state of Washington
 - 1 in Jacksonville FL in county no complete monitoring and history of violating 1-hour ozone NAAQS
- Rest of U.S. would be Unclassifiable/Attainment
- All current EPA staff recommendations are based on 2014-2016 monitoring data

2014-2016 Ozone Design Values



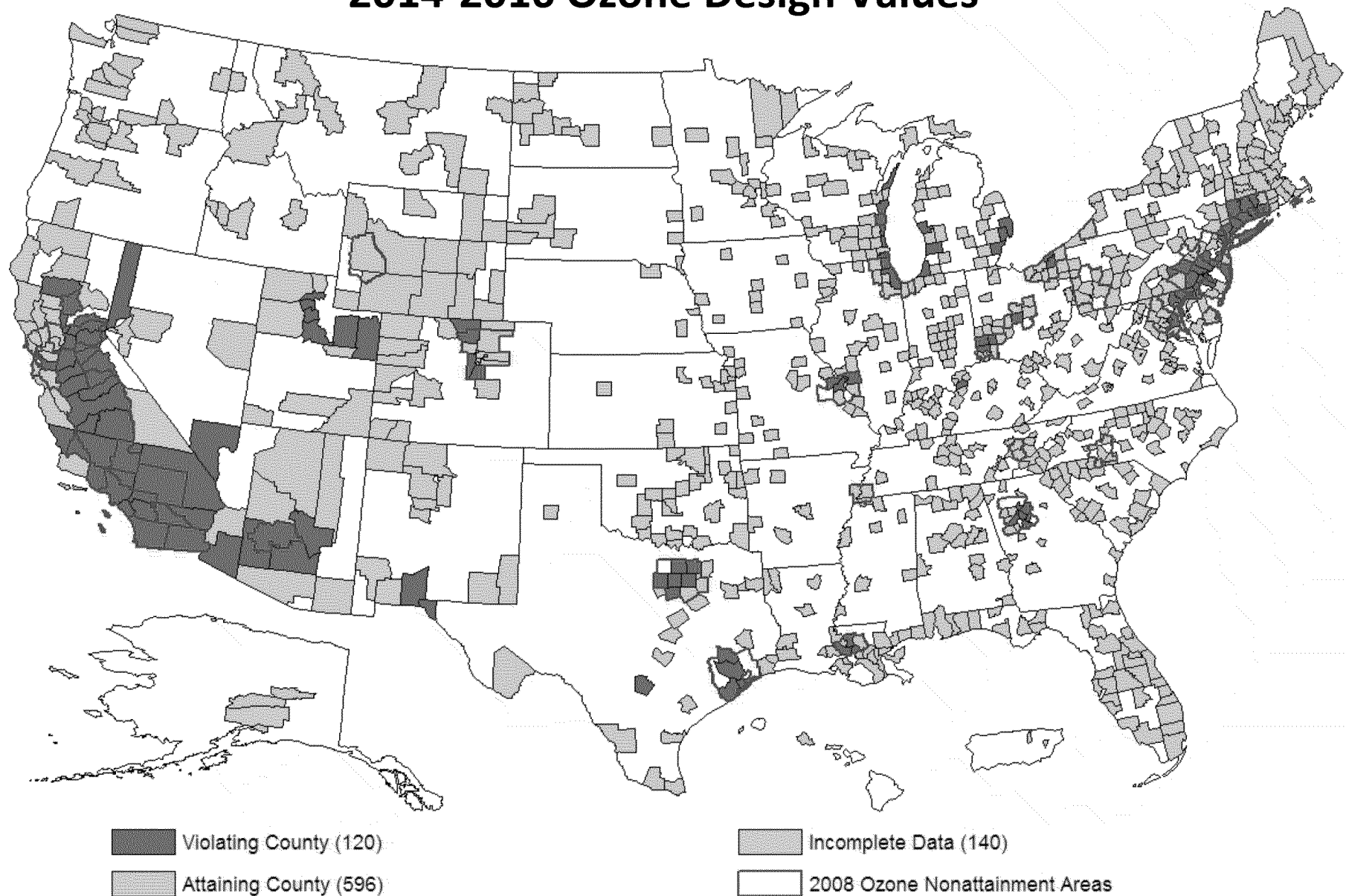
NOTE: The 2016 monitor data were certified by states by May 1, 2017. EPA published 2014-2016 design values in July 2017.

Counties with 2016 Design Values Exceeding the 2015 Ozone NAAQS



NOTE: The 2016 monitor data were certified by states by May 1, 2017. EPA published 2014-2016 design values in July 2017.

2014-2016 Ozone Design Values



DRAFT – preliminary for internal agency use

Focus Areas

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Incomplete Data - Unclassifiable

- Jacksonville, FL Area:

- Currently have invalid data at 3 monitors in Duval County and we do not expect them to be valid with 2016 or 2017 data.
- Jacksonville was a 1 county nonattainment area for the 1979 1-hour ozone NAAQS (Duval County – Transitional), and unclassifiable/attainment for all subsequent 8-hour ozone NAAQS
- State recommendation: Attainment

- Tri-Cities, WA Area:

- Exceedences of 2015 NAAQS - 4th high 2015 value: 75 ppb; 4th high 2016 value: 68 ppb. Data capture issues (64%, 88%)
- Not a previous 8-hour ozone nonattainment area
- Relevant topographical features: impacted by airflow in a river valley
- State recommendation: Unclassifiable for 3 counties (Benton, Franklin, and Walla Walla = CBSA + adjacent county with significant emissions)

2017 Outlook

- Up to 22 areas where 2017 data could create new violation of 2015 ozone NAAQS (areas were attaining in 2016).
- Impacted states could include:
 - AL
 - CT
 - IN
 - KY
 - MD
 - MA
 - MI
 - NY
 - NC
 - OH
 - PA
 - NJ
 - RI
 - TN
 - WI

To: Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Tierney, Jan
Sent: Wed 8/2/2017 8:07:26 PM
Subject: Fw: final edits to the withdrawal FR
[Notice-withdraw extension of O3D MMG final edits.docx](#)
[Notice-withdraw extension of O3D MMG final edits CLEAN.docx](#)

Ex. 5 - Attorney Client

From: Gunasekara, Mandy
Sent: Wednesday, August 2, 2017 3:55 PM
To: Tierney, Jan; Schwab, Justin; Bolen, Brittany
Cc: Smith, Kristi; Bianco, Karen; Mathias, Scott
Subject: RE: final edits to the withdrawal FR

I just gave Kevin (Minoli) the heads up.

I have some additional edits incorporated in the attached	Ex. 5 - Deliberative Process
Ex. 5 - Deliberative Process	
Ex. 5 - Deliberative Process	I'm happy to discuss that.

Brittany, let's touch base on OMB/WH review – or has that already happened?

Thank you.

From: Tierney, Jan
Sent: Wednesday, August 2, 2017 2:29 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Subject: final edits to the withdrawal FR

Justin, Brittany, Mandy -

The attached FR notice, in clean form, incorporates edits from OGC and OAQPS, including reference to Administrators Jackson and McCarthy as requested. It also includes citations for prior extension actions which had not been included in the earlier draft that was reviewed. Once we receive approval from you regarding the version for signature, OAQPS will send a new set of final documents, including the action memo and comm strat to OAR for processing. Thanks.

Jan Tierney

To: Tierney, Jan[tierney.jan@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 8/2/2017 7:55:43 PM
Subject: RE: final edits to the withdrawal FR
Notice-withdraw extension of O3D MMG final edits.docx
Notice-withdraw extension of O3D MMG final edits CLEAN.docx

I just gave Kevin (Minoli) the heads up.

I have some additional edits incorporated in the attached	Ex. 5 - Deliberative Process
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Thank you.

From: Tierney, Jan
Sent: Wednesday, August 2, 2017 2:29 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Subject: final edits to the withdrawal FR

Justin, Brittany, Mandy -

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Jan Tierney

To: Bianco, Karen[Bianco.Karen@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
Cc: Tierney, Jan[tierney.jan@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]
From: Mathias, Scott
Sent: Wed 8/2/2017 6:16:54 PM
Subject: final? notice to withdraw extension of o3d deadline
Notice-withdraw extension of O3D deadline 8-2-17 rev.docx

The attached FR notice, in clean form, incorporates the last OGC staff iteration of the edits made by politicals, including Kristi's mod to the last sentence (which we like). It also includes reference to Jackson and McCarthy as requested, and the citations for prior extension actions are filled in. Please check and forward for clearance. Once we hear from you we will send a new set of final documents, including the action memo and comm strat to OAR for processing.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

-----Original Message-----

From: Bianco, Karen
Sent: Wednesday, August 02, 2017 1:56 PM
To: Mathias, Scott <Mathias.Scott@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>
Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx

Another edit from some political via Justin forwarded below. Scott, if you can add this to what you are doing, that would be helpful. If not, Jan or I will do it once you send back the new "final".

-----Original Message-----

From: Schwab, Justin
Sent: Wednesday, August 02, 2017 1:54 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx

Edits:

Ex. 5 - Deliberative Process

Sent from my iPhone

> On Aug 2, 2017, at 12:28 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

>

> Thank you, Justin. Message received. We will work on getting a new draft for your review and to go to DOJ.

>

> -----Original Message-----

> From: Schwab, Justin

> Sent: Wednesday, August 02, 2017 12:25 PM

> To: Bianco, Karen <Bianco.Karen@epa.gov>

> Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx

>

> Attached is the new third floor version. Please confirm receipt. Please incorporate OGC edits made on the prior circulation and resend to me for my review. At that point (ie without waiting for third floor/my approval) you can share with DOJ, but with the warning that it is still subject to change.

>

> Sent from my iPhone

>

>> On Aug 2, 2017, at 12:22 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

>>

>>

>>

>> <Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx>

>>

>>

>>

>> Sent from my iPhone

To: Mathias, Scott[Mathias.Scott@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Tierney, Jan
Sent: Wed 8/2/2017 4:46:31 PM
Subject: Fw: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx
Notice-withdraw extension of O3D deadline 7-27-17 MMG edits ogc.docx

I hope this doesn't confuse things too much. Justin sent us this version of the notice and asked for us to add our edits to it. I'm not certain whether this is the "final" version that OAQPS had. In any event, I added OGC's edits. Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client OAQPS, please look at this and provide me with a "final" copy that I can then pass back to Justin.

From: Schwab, Justin
Sent: Wednesday, August 2, 2017 12:31 PM
To: Bianco, Karen
Cc: Smith, Kristi; Tierney, Jan
Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx

Thank you. Please copy mandy and Brittany Bolen on what you send back.

Sent from my iPhone

> On Aug 2, 2017, at 12:28 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:
>
> Thank you, Justin. Message received. We will work on getting a new draft for your review and to go to DOJ.
>
> -----Original Message-----
> From: Schwab, Justin
> Sent: Wednesday, August 02, 2017 12:25 PM
> To: Bianco, Karen <Bianco.Karen@epa.gov>
> Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx
>
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>
> Sent from my iPhone
>
>> On Aug 2, 2017, at 12:22 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:
>>
>>
>>
>> <Notice-withdraw extension of O3D deadline 7-27-17 _MMG edits_CLEAN.docx>
>>
>>
>>

>> Sent from my iPhone

To: Bianco, Karen[Bianco.Karen@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Mathias, Scott
Sent: Thur 7/13/2017 6:37:52 PM
Subject: RE: draft briefing paper for 3:30 with OGC front office
Designations delay Briefing Sheet 7.13.17 slm.docx

See attached. Thanks for letting me review.

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

From: Bianco, Karen
Sent: Thursday, July 13, 2017 1:49 PM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: draft briefing paper for 3:30 with OGC front office
Importance: High

Attached is a briefing paper that Jan and I drafted, and Kristi reviewed, for our 3:30 meeting with the OGC front office on the ozone designations delay. If you have time to review this before 3:15, please send me any edits you have.

Scott, we welcome your input on this document, but please do not distribute it further at this stage.

Thanks! Karen

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Schwab, Justin[schwab.justin@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Fri 7/28/2017 3:09:26 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Thanks for the quick response, Justin. I will share with Norman right now and stress that this is in a draft state.

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:08 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

No—in fact I would just share it with him and I will let Jon B. know we have done so. But again, please stress that this is not set in stone.

From: Bianco, Karen
Sent: Friday, July 28, 2017 11:07 AM
To: Schwab, Justin <schwab.justin@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Norman Rave, our staff attorney at DOJ on this case, had also asked me to see a draft of the notice when we had one that was ready to share. Are there any concerns with me sharing the draft notice directly with Norman as well?

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:05 AM

To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Mandy has authorized me to share this with Brightbill. I will make it clear this is a draft and it may change.

From: Schwab, Justin
Sent: Friday, July 28, 2017 10:44 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

DOJ leadership has asked to see the draft so that they can coordinate with an eye to next week's filing date. Thoughts?

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Sent: Friday, July 28, 2017 10:09 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
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The draft FR notice is attached.

Thanks, Karen

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Sent: Friday, July 28, 2017 10:06 AM

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Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>
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Enjoy Rehobeth!

Sent from my iPhone

On Jul 28, 2017, at 9:46 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Justin -

This is already in route to Mandy (if not with her). We've been keeping OAR Chief of Staff Josh Lewis (Cc'ed here) in the loop, given the urgency.

But I understand if you feel you also have to move this through your own channels.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
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On Jul 28, 2017, at 9:32 AM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Thank you. Given the tight turn I think we need to circulate to Mandy (and Sam D and Brittany) now and explain we are doing parallel review.

Thanks to all for the great and timely work here.

Sent from my iPhone

On Jul 28, 2017, at 9:04 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

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As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

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Have a great weekend,

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<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

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To: Schwab, Justin[schwab.justin@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Fri 7/28/2017 3:07:05 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Norman Rave, our staff attorney at DOJ on this case, had also asked me to see a draft of the notice when we had one that was ready to share. Are there any concerns with me sharing the draft notice directly with Norman as well?

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Sent: Friday, July 28, 2017 11:05 AM
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Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Fri 7/28/2017 2:09:19 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal
Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx

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<Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx>

To: Tierney, Jan[tierney.jan@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Thur 7/27/2017 6:27:22 PM
Subject: RE: key messages piece
Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 jmt +kbb.docx

Ugh this is really far from what I was hoping we would get and what I think we need. I don't understand how putting this out would be constructive. Feel free to tone down the annoyed tone in my comments.

From: Bianco, Karen
Sent: Thursday, July 27, 2017 1:55 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

That's a very good point.

From: Tierney, Jan
Sent: Thursday, July 27, 2017 1:54 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

Ex. 5 - Deliberative Process and Attorney Client

From: Bianco, Karen
Sent: Thursday, July 27, 2017 1:51 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

Also meant to note that I'm not clear (1) whether Mike's additional sentences were for the FRN or the key messages doc; and (2) whether we were supposed to add them following Scott's

email.

Ex. 5 - Deliberative Process and Attorney Client

From: Tierney, Jan
Sent: Thursday, July 27, 2017 1:48 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

Karen's edits are a definite improvement. I'll be away from my desk at a meeting between 2 and 3.

From: Bianco, Karen
Sent: Thursday, July 27, 2017 1:45 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

Here's my markup of the FR notice. It looked like this draft incorporated Jan's edits from yesterday, so I just reviewed it as it stood and redlined some changes. I tried to explain points that were a policy call (so OAQPS can ignore me) vs. one that I think could make our legal position marginally stronger.

From: Bianco, Karen
Sent: Thursday, July 27, 2017 1:35 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: key messages piece

Will send the FR notice shortly and then will look at this

From: Tierney, Jan

Sent: Thursday, July 27, 2017 1:14 PM

To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>

Subject: key messages piece

I didn't look back at the FR notice since it presumably is unchanged. Here are a couple of edits/comments on the messaging piece, which seems to have a significant focus on background.

To: Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Thur 7/27/2017 2:50:20 PM
Subject: RE: ozone designation stay deadline

Yes that's right. It will be a very simple joint response and motion to dismiss.

From: Smith, Kristi
Sent: Thursday, July 27, 2017 10:26 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: ozone designation stay deadline

Karen –

I need to provide the Front Office with a bullet for our deadline next week.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Is that right?

- Kristi

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To: Tierney, Jan[tierney.jan@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Mon 7/24/2017 5:52:40 PM
Subject: RE: ozone designation delay withdrawal notice

I had been thinking of something much more basic than this in the immediate term while we wait for further direction from the third floor. What I thought we were going to draft now was just a very simple (couple sentences) withdraw and fill in all the boilerplate, etc, which we could then build out (or not) once we get clear third floor direction.

From: Tierney, Jan
Sent: Monday, July 24, 2017 1:48 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: ozone designation delay withdrawal notice

Kristi, Karen –

I just spoke with Carla.

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Also, has there been any discussion of sending new letters to the states? I'm assuming they will want to do so since they made the announcement that way. Should OAQPS be working on that too?

Jan

From: Bianco, Karen

Sent: Monday, July 24, 2017 9:50 AM

To: Mathias, Scott <Mathias.Scott@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>

Cc: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>

Subject: ozone designation delay withdrawal notice

Good morning,

We still haven't heard any decisions flowing out of our Thursday morning meeting with the politicals on the delay for the 2015 ozone designations (and I assume you all are in the same position). Given that it seems certain we are going to withdraw the June 28 notice (the uncertainty being what, if anything, accompanies that withdrawal), and given that we have very little time to draft and route this thing for signature (we're still aiming for an August 2 signature date), I'm thinking it would be smart to at least draft a simple withdrawal notice now. We can always add to the notice later on once we have more definitive direction. Is this something OA QPS could get started on?

Karen

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Koerber, Mike[Koerber.Mike@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Wed 7/19/2017 7:14:19 PM
Subject: new briefing paper
O3D - Insufficient Info Briefing v6 7-19-2017.docx

Attached is a new version of the briefing paper reflecting the edits we discussed with Mike. I did not redline the straightforward edits Mike gave us, but otherwise redlined things that were new (which are limited).

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

I'm working on the Appendices in a separate document which I will send when I can.

Karen Bennett Bianco ³ U.S. Environmental Protection Agency

Attorney-Adviser ³ Office of General Counsel ³ WJCN 7426X ³ 202-564-3298

To: Tierney, Jan[tierney.jan@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Wed 7/19/2017 12:34:42 PM
Subject: RE: O3D Extension - New revised briefing
O3D - Insufficient Info Briefing v4 7-18-2017 ogc1+kbb.docx

My edits on top of Jan's. I didn't add much because Jan really did a great job hitting the key problem areas. I do have some suggestions about reworking the section with Justin's ideas, though.

From: Tierney, Jan
Sent: Tuesday, July 18, 2017 4:35 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

Here are my edits on the document. I did do some recommendations as to cuts early on, but then dropped that approach. I'll be here until 5:15. Working from home tomorrow, which means I'll probably log on between 6:30 and 7. Home phone is Ex. 6 - Personal Privacy

From: Bianco, Karen
Sent: Tuesday, July 18, 2017 2:49 PM
To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: O3D Extension - New revised briefing

For our ARLO-internal process moving forward, I'd suggest:

1. All of us look through the document Scott sent and edit things that are wrong/miscommunicated/missing/etc, but not generally attack the overall structure/length. Jan, if you have time to do this over the next hour or two, I'd suggest you go first, then me, then Kristi.
2. I'll take a version of this offline and do a more dramatic reworking. I'll send that to Jan then Kristi to review.

Does that make sense?

From: Mathias, Scott
Sent: Tuesday, July 18, 2017 2:45 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Cc: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>
Subject: O3D Extension - New revised briefing

Ex. 5 - Deliberative Process and Attorney Client

Revision summary:

- Added Purpose and Introduction to first page.
- Old section III moved to appendix. Instead 2 sentences on state recommendations added to section I under State Recommendations.
- Re-ordered the lists in some sections according to different criteria.

Ex. 5 - Deliberative Process and Attorney Client

- Tried to cut down words on the page wherever it seemed feasible without losing important points.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

To: Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Wed 7/19/2017 1:38:59 AM
Subject: RE: O3D Extension - New revised briefing
O3D - Insufficient Info Briefing v5 7-18-2017.docx

Attached is a dramatically reworked version of the briefing paper. The former version is cut and paste into the appendix for now. I need to clean that up if we're going to go with this approach, but have not spent the time to do that yet.

From: Smith, Kristi
Sent: Tuesday, July 18, 2017 5:26 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: O3D Extension - New revised briefing

Thanks. My class tonight was cancelled, but I have a transport brief and Texas haze thing I can review tonight. Nice to know I don't need to get up super early tomorrow to do this review :)

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To: Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: RE: O3D Extension - New revised briefing

Thanks. I'll send my drastic rewrite later tonight, which you can look at in the morning, Jan. I will also look through your edits to the existing draft tonight. Kristi, I think both documents should be ready for your review when you get in tomorrow morning.

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Sent: Tuesday, July 18, 2017 2:45 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Cc: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>
Subject: O3D Extension - New revised briefing

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Revision summary:

- [REDACTED] Added Purpose and Introduction to first page.
- [REDACTED] Old section III moved to appendix. Instead 2 sentences on state recommendations added to section I under State Recommendations.
- [REDACTED] Re-ordered the lists in some sections according to different criteria.

Ex. 5 - Deliberative Process and Attorney Client

- [REDACTED] Tried to cut down words on the page wherever it seemed feasible without losing important points.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

To: Mathias, Scott[Mathias.Scott@epa.gov]
From: Bianco, Karen
Sent: Tue 7/18/2017 10:58:05 AM
Subject: Fwd: Updated O3D extension briefing
[O3D - Insufficient Info Briefing v2 7-17-2017 +kbb jmt.docx](#)
[ATT00001.htm](#)

Scott I'm forwarding on to markup on your version 2 document. I haven't looked at it yet so apologies if there's internal OGC back and forth. I wanted to get this to you as quickly as possible.

I should be in around 8 if you want to chat about any of this.

Sent from my iPhone

Begin forwarded message:

From: "Tierney, Jan" <tierney.jan@epa.gov>
Date: July 18, 2017 at 6:54:53 AM EDT
To: "Smith, Kristi" <Smith.Kristi@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Re: Updated O3D extension briefing

Attached are my edits. I thought it better to get my edits in early from home rather than waiting until I got in to the office. Still need to shower and will probably eat before I leave. Hope to be in by 9 for our meeting.

From: Smith, Kristi
Sent: Monday, July 17, 2017 9:47 PM
To: Bianco, Karen
Cc: Tierney, Jan
Subject: Re: Updated O3D extension briefing

Thanks. This looks like a good start. **Ex. 5 - Deliberative Process and Attorney Client**

Ex. 5 - Deliberative Process and Attorney Client

I think we'll likely need additional modification after talking to Sarah.

Talk to you in the morning.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *

Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

On Jul 17, 2017, at 8:43 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

Attached is my markup. I believe Jan is planning to add her markup onto this draft early tomorrow morning (around 8). Kristi, if you're providing any input at this stage, it'd be helpful to have your markup tonight so that Jan can add to it. otherwise, it might be worth just waiting to see whatever draft evolves after the pre-brief with Sarah tomorrow.

From: Bianco, Karen
Sent: Monday, July 17, 2017 7:19 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Subject: Fwd: Updated O3D extension briefing

This is the latest. I'm planning to review later tonight and could give you a version with my markup by around 9.

Sent from my iPhone

Begin forwarded message:

From: "Mathias, Scott" <Mathias.Scott@epa.gov>
Date: July 17, 2017 at 6:02:42 PM EDT
To: "Bianco, Karen" <Bianco.Karen@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>
Subject: FW: Updated O3D extension briefing

Here's where OAQPS is at the moment. Your section is now section V, and can include your assessment of risks associated with any of the policy ideas being presented.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

From: Mathias, Scott
Sent: Monday, July 17, 2017 6:02 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna
<Wood.Anna@epa.gov>; Page, Steve <Page.Steve@epa.gov>
Subject: Updated O3D extension briefing

See attached.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S.
EPA, RTP, NC 27711 | 919.541.5310**

<O3D - Insufficient Info Briefing v2 7-17-2017 +kbb.docx>

To: Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Thur 7/13/2017 6:43:50 PM
Subject: Fwd: draft briefing paper for 3:30 with OGC front office
Designations delay Briefing Sheet 7.13.17 slm.docx
ATT00001.htm

Can one of you make these edits and print 10 copies? I'm in another meeting with Justin.

Sent from my iPhone

Begin forwarded message:

From: "Mathias, Scott" <Mathias.Scott@epa.gov>
Date: July 13, 2017 at 2:37:52 PM EDT
To: "Bianco, Karen" <Bianco.Karen@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>
Cc: "Smith, Kristi" <Smith.Kristi@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>
Subject: RE: draft briefing paper for 3:30 with OGC front office

See attached. Thanks for letting me review **Ex. 5 - Deliberative Process and Attorney Client**

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC
27711 | 919.541.5310

From: Bianco, Karen
Sent: Thursday, July 13, 2017 1:49 PM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>
Subject: draft briefing paper for 3:30 with OGC front office
Importance: High

Attached is a briefing paper that Jan and I drafted, and Kristi reviewed, for our 3:30 meeting with the OGC front office on the ozone designations delay. If you have time to review this before 3:15, please send me any edits you have.

Scott, we welcome your input on this document, but please do not distribute it further at this stage.

Thanks! Karen

Karen Bennett Bianco ° U.S. Environmental Protection Agency

Attorney-Adviser ° Office of General Counsel ° WJCN 7426X ° 202-564-3298

To: Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Thur 7/13/2017 4:40:25 PM
Subject: RE: short write-up
Designations delay Briefing Sheet DRAFT.docx

Sorry, added one bullet, so please look at this version instead.

From: Bianco, Karen
Sent: Thursday, July 13, 2017 12:34 PM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: short write-up

See what you think of this.

From: Bianco, Karen
Sent: Thursday, July 13, 2017 11:24 AM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: short write-up

I think this generally looks good, though I think the 5-factor test may be more detail than is needed for the briefing paper (though we may want to mention it orally if there's time). That's just my opinion though so feel free to disagree.

I'm going to reformat this a bit and add a bit about "insufficient information" and about the format options for a new notice – is that OK?

From: Tierney, Jan
Sent: Thursday, July 13, 2017 10:59 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: short write-up

Here's something short – I can do it some other way or I can provide more info, if needed. Just let me know what I can do to help.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

To: Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Thur 7/13/2017 4:34:26 PM
Subject: RE: short write-up
Designations delay Briefing Sheet DRAFT.docx

See what you think of this.

From: Bianco, Karen
Sent: Thursday, July 13, 2017 11:24 AM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: RE: short write-up

I think this generally looks good, though I think the 5-factor test may be more detail than is needed for the briefing paper (though we may want to mention it orally if there's time). That's just my opinion though so feel free to disagree.

I'm going to reformat this a bit and add a bit about "insufficient information" and about the format options for a new notice – is that OK?

From: Tierney, Jan
Sent: Thursday, July 13, 2017 10:59 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: short write-up

Here's something short – I can do it some other way or I can provide more info, if needed. Just let me know what I can do to help.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Wed 8/2/2017 2:28:39 PM
Subject: Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Ex. 5 - Deliberative Process and Attorney Client

Sent from my iPhone

On Aug 1, 2017, at 8:49 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

Thanks for reviewing the motion, Lorie.

Ex. 5 - Deliberative Process and Attorney Client

From: Schmidt, Lorie
Sent: Tuesday, August 01, 2017 8:42 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur
Importance: High

Ex. 5 - Deliberative Process and Attorney Client

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Bianco, Karen

Sent: Tuesday, August 01, 2017 3:04 PM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>

Subject: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Importance: High

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point. It was drafted by Norman Rave and has been reviewed by Jack.

Please send me your edits and comments and then I will pass this along to Erik for his review.

Karen Bennett Bianco ³ U.S. Environmental Protection Agency

Attorney-Adviser ³ Office of General Counsel ³ WJCN 7426X ³ 202-564-3298

To: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Wed 8/2/2017 12:49:12 AM
Subject: RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Thanks for reviewing the motion, Lorie.

Ex. 5 - Deliberative Process and Attorney Client

From: Schmidt, Lorie
Sent: Tuesday, August 01, 2017 8:42 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Subject: FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur
Importance: High

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Bianco, Karen

Sent: Tuesday, August 01, 2017 3:04 PM

To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>

Subject: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Importance: High

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point. It was drafted by Norman Rave and has been reviewed by Jack.

Please send me your edits and comments and then I will pass this along to Erik for his review.

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Rave, Norman (ENRD)[Norman.Rave@usdoj.gov]
Cc: Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Mon 7/31/2017 1:54:23 PM
Subject: FW: Ozone Designation Extension

Norman, I called in help from a friend on your designation question. See the note forwarded below from Jan Tierney.

From: Tierney, Jan
Sent: Monday, July 31, 2017 9:33 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen
Sent: Monday, July 31, 2017 9:25 AM
To: Tierney, Jan <tierney.jan@epa.gov>
Subject: FW: Ozone Designation Extension

Jan, see email chain forwarded below. Do you have any thoughts on this?

From: Rave, Norman (ENRD) [<mailto:Norman.Rave@usdoj.gov>]
Sent: Friday, July 28, 2017 5:12 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen [<mailto:Bianco.Karen@epa.gov>]
Sent: Friday, July 28, 2017 5:09 PM
To: Rave, Norman (ENRD) <NRave@ENRD.USDOJ.GOV>
Subject: RE: Ozone Designation Extension

Yes.

From: Rave, Norman (ENRD) [<mailto:Norman.Rave@usdoj.gov>]
Sent: Friday, July 28, 2017 4:13 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Smith, Kristi[Smith.Kristi@epa.gov]
From: Bianco, Karen
Sent: Mon 7/31/2017 1:48:35 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Just FYI I didn't hear anything from Josh or others related to the withdrawal notice after you left on Friday.

From: Smith, Kristi
Sent: Friday, July 28, 2017 11:02 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

Josh -

I'm including Karen Bianco here. I'm on leave today and will be out of pocket starting at noon, so please coordinate with Karen as needed.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068*

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On Jul 28, 2017, at 10:47 AM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

Thanks. Going to show to Sarah at 11 (or noon at the latest)

From: Smith, Kristi
Sent: Friday, July 28, 2017 10:47 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Here they are

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications. Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain
deliberative, attorney-client, attorney work product, or otherwise privileged material;
do not distribute outside EPA or DOJ.

To: Smith, Kristi[Smith.Kristi@epa.gov]
Cc: Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Mon 7/31/2017 1:40:09 PM
Subject: ozone designation delay litigation
ENV DEFENSE-#814165-v1-
Ozone_Designations_Extension_Mootness_Motion_w_JL_comments.DOCX

Two things on the ozone designation delay litigation:

1. Attached is a draft of our motion to be filed on Thursday. This has been reviewed through Jack Lipshultz at DOJ. It's short and pretty to the point, which I'm a fan of. Please review this when you can and then I'll put it into CTS for Lorie/Gautam and Justin.

2. An attorney from the Arizona AG's office reached out to DOJ on Friday indicating that states involved in the litigation challenging the 2015 ozone standard are interested in intervening on our behalf in the designation delay challenge. They have indicated that they plan to file their motion to intervene on Thursday and want to know our position.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

I'll put this on the reg review agenda, unless anyone has any objections?

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

To: Tierney, Jan[tierney.jan@epa.gov]
From: Bianco, Karen
Sent: Mon 7/31/2017 1:25:12 PM
Subject: FW: Ozone Designation Extension

Jan, see email chain forwarded below. Do you have any thoughts on this?

From: Rave, Norman (ENRD) [mailto:Norman.Rave@usdoj.gov]
Sent: Friday, July 28, 2017 5:12 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: RE: Ozone Designation Extension

Ex. 5 - Attorney Client

From: Bianco, Karen [mailto:Bianco.Karen@epa.gov]
Sent: Friday, July 28, 2017 5:09 PM
To: Rave, Norman (ENRD) <NRave@ENRD.USDOJ.GOV>
Subject: RE: Ozone Designation Extension

Yes.

From: Rave, Norman (ENRD) [mailto:Norman.Rave@usdoj.gov]
Sent: Friday, July 28, 2017 4:13 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Rave, Norman (ENRD)[Norman.Rave@usdoj.gov]
From: Bianco, Karen
Sent: Fri 7/28/2017 9:09:03 PM
Subject: RE: Ozone Designation Extension

Yes.

From: Rave, Norman (ENRD) [mailto:Norman.Rave@usdoj.gov]
Sent: Friday, July 28, 2017 4:13 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Subject: Ozone Designation Extension

Ex. 5 - Attorney Client

To: Bowman, Liz[Bowman.Liz@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Gunasekara, Mandy
Sent: Wed 8/2/2017 9:32:01 PM
Subject: RE: UPDATED: For Review: News Release re: Withdraw of Ozone Designations
Notice-withdraw extension of O3D MMG final edits.docx

My edits included in attached. Perhaps Justin already incorporated - I'm getting away from the case-by-case language.

-----Original Message-----

From: Bowman, Liz
Sent: Wednesday, August 2, 2017 5:31 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: FW: UPDATED: For Review: News Release re: Withdraw of Ozone Designations
Importance: High

Attached is the current version; please come to my office or call me to walk through any edits as soon as you can. I have incorporated all the edits Justin has sent me, but I haven't gotten any from the policy office yet.

-----Original Message-----

From: Schwab, Justin
Sent: Wednesday, August 2, 2017 5:22 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: UPDATED: For Review: News Release re: Withdraw of Ozone Designations

Please do not send until you connect with Brittany. She will have revisions to the language that should be incorporated before you send.

Sent from my iPhone

> On Aug 2, 2017, at 2:30 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

>

> Updated and attached. The 15-states suing is getting a lot of media attention (I am sure you know), so the sooner we can push this out, the better. Again, I won't do it until you tell me to, just a stressful reminder.

>

> -----Original Message-----

> From: Schwab, Justin

> Sent: Wednesday, August 2, 2017 2:11 PM

> To: Bowman, Liz <Bowman.Liz@epa.gov>

> Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>

> Subject: Re: UPDATED: For Review: News Release re: Withdraw of Ozone Designations

>

> One more edit:

>

Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

>

>

> Sent from my iPhone

>

>> On Aug 1, 2017, at 7:31 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

>>

Ex. 5 - Deliberative Process and Attorney Client

> <2017-08-01 Draft withdraw of Extension for Ozone Designations v2.docx>

To: Schwab, Justin[schwab.justin@epa.gov]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Bowman, Liz
Sent: Wed 8/2/2017 6:30:14 PM
Subject: RE: UPDATED: For Review: News Release re: Withdraw of Ozone Designations
2017-08-01 Draft withdraw of Extension for Ozone Designations v2.docx

Updated and attached. The 15-states suing is getting a lot of media attention (I am sure you know), so the sooner we can push this out, the better. Again, I won't do it until you tell me to, just a stressful reminder.

-----Original Message-----

From: Schwab, Justin
Sent: Wednesday, August 2, 2017 2:11 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: UPDATED: For Review: News Release re: Withdraw of Ozone Designations

One more edit:

Ex. 5 - Deliberative Process and Attorney Client

Sent from my iPhone

> On Aug 1, 2017, at 7:31 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Ex. 5 - Deliberative Process and Attorney Client

To: Schwab, Justin[schwab.justin@epa.gov]
From: Fotouhi, David
Sent: Sun 7/30/2017 7:40:52 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Should we ask Liz for a meeting to plan for the rollout of this?

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:01 PM
To: Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Sent from my iPhone

Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications.

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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To: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Greaves, Holly
Sent: Tue 6/20/2017 9:27:03 PM
Subject: Prep for Senate Hearing
[BLUE BOOK, Big Book.zip](#)
[New Source Performance Standards Wood Stoves.docx](#)
[2015 Delay Implementation of the 2015 Ozone Standards.docx](#)
[METHANE OIL AND GAS RULE.docx](#)
[War on Coal.docx](#)
[California Waiver.docx](#)

Good afternoon,

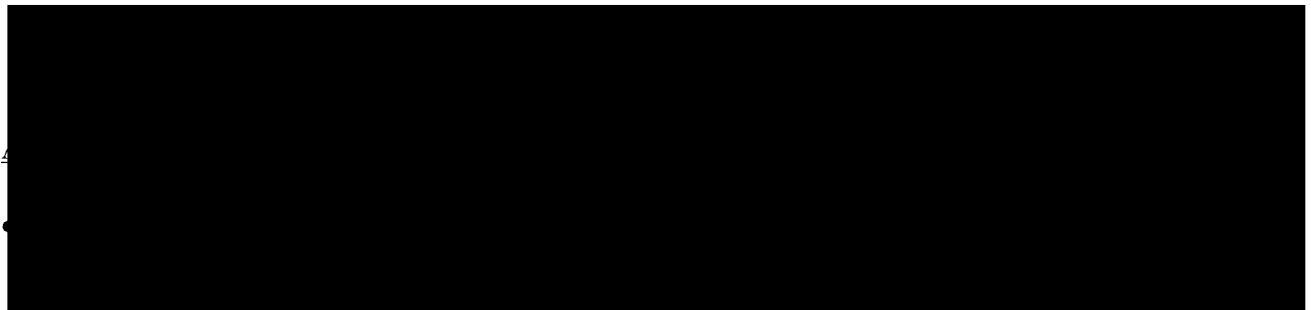
We currently have time blocked on the Administrator's schedule Thursday morning and Monday (all day) for hearing prep. Below are the list of topics, crosswalked to the fact sheet in the big book with the blue cover, that OCIR has identified as relevant to the committee members.

Please be prepared to brief the Administrator on the subjects in your area of responsibility (i.e. air, water, land, chemicals). We will be sensitive to everyone's schedule and try to call you to his office only when you are needed, as we did last week.

Note – there were new fact sheets created for the blue books and if you are missing a page referenced in the list below, please refer to the soft copies, attached.

Thanks,

Holly



To: Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Schwab, Justin
Sent: Sat 7/29/2017 3:01:13 AM
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx](#)
[ATT00001.htm](#)
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications. **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,
Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Wed 8/2/2017 9:08:17 PM
Subject: Fwd: final edits to the withdrawal FR
[Notice-withdraw extension of O3D MMG final edits.docx](#)
[ATT00001.htm](#)
[Notice-withdraw extension of O3D MMG final edits CLEAN.docx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: August 2, 2017 at 3:55:43 PM EDT
To: "Tierney, Jan" <tierney.jan@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>
Cc: "Smith, Kristi" <Smith.Kristi@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>, "Mathias, Scott" <Mathias.Scott@epa.gov>
Subject: RE: final edits to the withdrawal FR

I just gave Kevin (Minoli) the heads up.

I have some additional edits incorporated in the attached Ex. 5 - Deliberative Process and Attorney Client
Ex. 5 - Deliberative Process and Attorney Client
Ex. 5 - Deliberative Process and Attorney Client I'm happy to discuss that.

Brittany, let's touch base on OMB/WH review – or has that already happened?

Thank you.

From: Tierney, Jan
Sent: Wednesday, August 2, 2017 2:29 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>
Subject: final edits to the withdrawal FR

Justin, Brittany, Mandy -

The attached FR notice, in clean form, incorporates edits from OGC and OAQPS, including reference to Administrators Jackson and McCarthy as requested. It also includes citations for prior extension actions which had not been included in the earlier draft that was reviewed. Once we receive approval from you regarding the version for signature, OAQPS will send a new set of final documents, including the action memo and comm strat to OAR for processing. Thanks.

Jan Tierney

To: Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Schwab, Justin
Sent: Tue 8/1/2017 2:05:58 PM
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx](#)
[ATT00001.htm](#)
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <schwab.justin@epa.gov>
Date: August 1, 2017 at 9:48:31 AM EDT
To: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Subject: FW: Draft FRN on Ozone designations deferral withdrawal

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:01 PM
To: Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Sent from my iPhone

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From: "Smith, Kristi" <Smith.Kristi@epa.gov>
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To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
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Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

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* smith.kristi@epa.gov * (202) 564-3068*

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To: Fotouhi, David[fotouhi.david@epa.gov]
From: Schwab, Justin
Sent: Sun 7/30/2017 7:42:13 PM
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

Yes - mandy must be there too.
Good idea.

Sent from my iPhone

On Jul 30, 2017, at 3:40 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Should we ask Liz for a meeting to plan for the rollout of this?

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Schwab, Justin
Sent: Friday, July 28, 2017 11:01 PM
To: Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
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* smith.kristi@epa.gov * (202) 564-3068*

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To: Cortelyou-Lee, Jan[Cortelyou-Lee.Jan@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Long, Pam[Long.Pam@epa.gov]
From: Mathias, Scott
Sent: Thur 7/27/2017 6:54:33 PM
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Ex. 5 - Deliberative Process and Attorney Client

The desk statement seems fine to me for external audiences.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

From: Cortelyou-Lee, Jan
Sent: Thursday, July 27, 2017 1:49 PM
To: Mathias, Scott <Mathias.Scott@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

I'm attaching a first draft comms plan for this action. I don't think we need a fact sheet. We will post the statement on the web as a summary of the action. Happy to take your comments on this and then send it to Carla for the package.

Jan Cortelyou-Lee

US Environmental Protection Agency

Office of Air Quality Planning and Standards

MD-C404-03

109 TW Alexander Drive

Research Triangle Park, NC 27709

Desk: 919-541-5393

Cell: 919-368-5734

From: Mathias, Scott

Sent: Thursday, July 27, 2017 1:12 PM

To: Koerber, Mike <Koerber.Mike@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>

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Ex. 5 - Deliberative Process and Attorney Client

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 |

919.541.5310

From: Koerber, Mike

Sent: Thursday, July 27, 2017 12:58 PM

To: Mathias, Scott <Mathias.Scott@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>

Subject: Re: O3D extension withdrawal: draft FRN & Key Messages

I would add the 2 sentences that I sent to Scott this morning. Otherwise, I am fine with both documents.

Mike

Sent from my iPhone

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All,

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After discussions this morning, OAQPS is recommending that any embellishments on the core elements of the withdrawal action be accomplished in communications regarding the action, rather than within the action itself. This Key Messages draft draws from the language in the 7/24/2017 draft of the "Report to Congress on Administrative Options to Enable States to Enter into Cooperative Agreements to Provide Regulatory Relief," and ultimately care should be taken to ensure that these messages continue to be consistent as both documents move toward final.

Please review ASAP and let us know if there is anything we else we might add or say differently, and if you have ideas about where these key messages would go (e.g., communications Q&A, desk statement, fact sheet, press release, etc.).

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27711 | 919.541.5310**

<Notice-withdraw extension of O3D deadline 7-27-17 OAQPS draft.docx>

<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17.docx>

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Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Long, Pam[Long.Pam@epa.gov]
From: Cortelyou-Lee, Jan
Sent: Thur 7/27/2017 6:46:55 PM
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Can we use the statement externally – post on the website along with the prepublication version of the notice?

Jan Cortelyou-Lee

US Environmental Protection Agency

Office of Air Quality Planning and Standards

MD-C404-03

109 TW Alexander Drive

Research Triangle Park, NC 27709

Desk: 919-541-5393

Cell: 919-368-5734

From: Mathias, Scott
Sent: Thursday, July 27, 2017 2:46 PM
To: Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

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Please review ASAP and let us know if there is anything we else we might add or say differently, and if you have ideas about where these key messages would go (e.g., communications Q&A, desk statement, fact sheet, press release, etc.).

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC
27711 | 919.541.5310**

<Notice-withdraw extension of O3D deadline 7-27-17 OAQPS draft.docx>

<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17.docx>

To: Mathias, Scott[Mathias.Scott@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]
Cc: Smith, Kristi[Smith.Kristi@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Long, Pam[Long.Pam@epa.gov]
From: Cortelyou-Lee, Jan
Sent: Thur 7/27/2017 5:49:13 PM
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages
Extension Withdrawal Comm Plan.docx

I'm attaching a first draft comms plan for this action. I don't think we need a fact sheet. We will post the statement on the web as a summary of the action. Happy to take your comments on this and then send it to Carla for the package.

Jan Cortelyou-Lee

US Environmental Protection Agency

Office of Air Quality Planning and Standards

MD-C404-03

109 TW Alexander Drive

Research Triangle Park, NC 27709

Desk: 919-541-5393

Cell: 919-368-5734

From: Mathias, Scott
Sent: Thursday, July 27, 2017 1:12 PM
To: Koerber, Mike <Koerber.Mike@epa.gov>
Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Ex. 5 - Deliberative Process and Attorney Client

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

From: Koerber, Mike

Sent: Thursday, July 27, 2017 12:58 PM

To: Mathias, Scott <Mathias.Scott@epa.gov>

Cc: Smith, Kristi <Smith.Kristi@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Long, Pam <Long.Pam@epa.gov>

Subject: Re: O3D extension withdrawal: draft FRN & Key Messages

I would add the 2 sentences that I sent to Scott this morning. Otherwise, I am fine with both documents.

Mike

Sent from my iPhone

On Jul 27, 2017, at 12:29 PM, Mathias, Scott <Mathias.Scott@epa.gov> wrote:

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From: Mathias, Scott
Sent: Thur 7/27/2017 5:11:52 PM
Subject: RE: O3D extension withdrawal: draft FRN & Key Messages

Ex. 5 - Deliberative Process and Attorney Client

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<Notice-withdraw extension of O3D deadline 7-27-17 OAQPS draft.docx>

<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17.docx>

To: Smith, Kristi[Smith.Kristi@epa.gov]
From: Lewis, Josh
Sent: Fri 7/28/2017 2:47:22 PM
Subject: RE: Draft FRN on Ozone designations deferral withdrawal

Thanks. Going to show to Sarah at 11 (or noon at the latest)

From: Smith, Kristi
Sent: Friday, July 28, 2017 10:47 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Here they are

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

Begin forwarded message:

From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
To: "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Draft FRN on Ozone designations deferral withdrawal

Justin -

Attached is the draft FR notice for the ozone extension withdrawal that is in route to Sarah and Mandy, along with some key messages for communications. **Ex. 5 - Attorney Client**

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client As I discussed with Lorie yesterday, these drafts don't go into as much detail on messaging and possible future path as you had indicated, but we discussed it fully with

OAQPS managers and staff. This is what they feel comfortable saying, and this is the version they want to share with Mandy for feedback. So we will wait to hear what she says - we have time early next week for further refinement.

I'm out of the office today. We're driving to Rehobeth this morning, so I will be available to talk if needed, but then I'm out of pocket from noon through the rest of the weekend.

Have a great weekend,

Kristi

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To: Oldham, Carla[Oldham.Carla@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Anna Wood[Wood.Anna@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]
From: Smith, Kristi
Sent: Wed 7/26/2017 4:08:32 PM
Subject: RE: Ozone next steps - OAQPS check in
Notice-withdraw extension of O3D deadline 7-25-17 OGC.doc

Per the conversation today, here's the notice with notes on the "direction" we received from Justin. The plan going forward is for OAQPS will fill out bullet points of possible messaging, share with OGC, and the plan is to have a list of possible messaging options to share with Mandy and others tonight/tomorrow morning.

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-----Original Appointment-----

From: Smith, Kristi
Sent: Tuesday, July 25, 2017 6:43 PM
To: Smith, Kristi; Oldham, Carla; Mathias, Scott; Koerber, Mike
Subject: Ozone next steps - OAQPS check in
When: Wednesday, July 26, 2017 9:45 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: conf. Ex. 6 - Personal Privacy ex. Ex. 6 - Personal Privacy code: Ex. 6 - Personal Privacy

From: Smith, Kristi

Location: 4045; conf. line Ex. 6 - Personal Privacy **Code** Ex. 6 - Personal Privacy

Importance: Normal

Subject: Follow-up ozone extension discussion with Kevin Minoli

Start Date/Time: Fri 7/14/2017 7:30:00 PM

End Date/Time: Fri 7/14/2017 8:30:00 PM

Designations delay Briefing Sheet 7.13.17.docx

Recent Designation Extensions.docx

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Location: 4045; conf. line Ex. 6 - Personal Privacy **Code** Ex. 6 - Personal Privacy

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Designations delay Briefing Sheet 7.13.17.docx

Recent Designation Extensions.docx

To: Lewis, Josh[Lewis.Josh@epa.gov]
From: Smith, Kristi
Sent: Fri 7/28/2017 2:46:34 PM
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx](#)
[ATT00001.htm](#)
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)
[ATT00002.htm](#)

Here they are

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From: "Smith, Kristi" <Smith.Kristi@epa.gov>
Date: July 28, 2017 at 9:04:07 AM EDT
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Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
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To: Lewis, Josh[Lewis.Josh@epa.gov]
From: Smith, Kristi
Sent: Fri 7/28/2017 1:44:10 PM
Subject: Fwd: Draft FRN on Ozone designations deferral withdrawal

Josh -

Just realized I didn't include you here. Also, Justin responded and wants to move quickly, so I'm going to include you on my response so we can try to let the OAR process drive this.

- Kristi

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Cc: "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>
Subject: Re: Draft FRN on Ozone designations deferral withdrawal

Thank you. Given the tight turn I think we need to circulate to mandy (and Sam D and Brittany) now and explain we are doing parallel review.

Thanks to all for the great and timely work here.

Sent from my iPhone

On Jul 28, 2017, at 9:04 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

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<Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx>

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